

### **REMARKS**

Claims 51-64 and 69 are currently pending in the present application. Claims 1-50 were previously cancelled and claims 65-68 and 70-72 are currently cancelled. Claims 51, 57, and 69 are currently amended and support can be found, for example, in the original claims. No new matter has been added.

### **REJECTIONS UNDER 35 U.S.C. § 102**

Claims 51-64 stand rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by Doyle *et al.* (Advances in Critical Care Testing, Eds. Muller and McQueen, Springer-Verlag Telos, January 1997; reference A17 on the PTOL-1449 of 10/18/00). For at least the previously presented reasons, Applicant respectfully submits that Doyle *et al.* does not disclose the claimed patient populations, and thus does not anticipate the pending claims. Independent claims 51 and 57 have been amended to positively recite the step of “identifying a mammal who is asymptomatic to lung damage or wherein the clinical diagnosis of lung damage in said mammal cannot otherwise be confirmed without the aid of one or more invasive procedures” or “identifying a mammal who is asymptomatic to alveolo-capillary membrane damage or wherein the clinical diagnosis of alveolo-capillary membrane damage in said mammal cannot otherwise be confirmed without the aid of one or more invasive procedures,” respectively. Applicants submit that the cited references do not disclose or suggest such a step. Therefore, it is respectfully submitted that the rejections under 35 U.S.C. § 102(b) have been overcome and should therefore be withdrawn.

### **REJECTIONS UNDER 35 U.S.C. § 103**

Claims 51-72 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Doyle *et al.* (Am. J. Respir. Crit. Care Med. 1994; 149; A576) (“Doyle A”) in view of Doyle *et al.* (Advances in Critical Care Testing, Eds. Muller and McQueen, Springer-Verlag Telos, January 1997; reference A17 on the PTOL-1449 of 10/18/00) (“Doyle B”), Doyle *et al.* (Am. J. Respir. Crit. Care Med. 152:307-317, 1995) (“Doyle C”), Honda (Japanese Journal of Thoracic Diseases, 34 Suppl Abstract only, December 1996; reference A11 on PTOL-1449 of 6/6/00) and Abe *et al.* (Japanese Journal of Thoracic Diseases, 33(11):1219, Abstract only, November 1995;

reference A10 on PTOL-1449 of 6/6/00). Applicant respectfully submits that these rejections should be withdrawn for at least the following reasons. As described above, Doyle B does not disclose or suggest the step of identify the particular patient population as recited in independent claims 51 and 57. Neither Doyle A, Doyle C, Honda nor Abe *et al.* cure the shortcomings of Doyle B. That is, neither Doyle A, Doyle C, Honda nor Abe *et al.* disclose or suggest the step of identifying the particular patient population as recited in independent claims 51 and 57. Thus, for at least the preceding reasons it is respectfully submitted that the rejections under 35 U.S.C. § 103(a) should be withdrawn.

**Conclusion**

The Office may charge any additional fees required, or credit any overpayments, to Deposit Account No. 11-0600.

The Examiner is invited to contact the undersigned at 202-220-4200 to discuss any matter regarding this application.

Respectfully submitted,  
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